

2/28/2019 1:49 pm

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

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JEFFREY SCOTT ROTH,

For Online Publication Only

Plaintiff,

-against-

ORDER
16-CV-5711 (JMA)

COMMISSIONER of the SOCIAL SECURITY
ADMINISTRATION,

Defendant.

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AZRACK, United States District Judge:

By Memorandum and Order dated August 30, 2018, the Court denied plaintiff Jeffrey Scott Roth's motion for judgment on the pleadings and granted defendant's cross-motion for judgment on the pleadings. (ECF No. 13.) On August 31, 2018 final judgment was entered. (ECF No. 14.) Plaintiff was represented and paid the filing fee in this Court to commence the action. On September 28, 2018, plaintiff, now *pro se*, timely filed a Notice of Appeal but did not file an application to proceed *in forma pauperis* on appeal, nor did he remit the filing fee for the appeal. (ECF No. 15.) On November 2, 2018, plaintiff moved for leave to appeal *in forma pauperis* in the United States Court of Appeals for the Second Circuit. By Order dated February 13, 2019, the Second Circuit transferred plaintiff's application to this Court pursuant to Federal Rule of Appellate Procedure 24(a)(1) ("[A] party to a district-court action who desires to appeal *in forma pauperis* must file a motion in the district court."). (ECF No. 16.) For the following reasons, the motion to appeal *in forma pauperis* (ECF No. 17) is DENIED.

DISCUSSION

Pursuant to Federal Rule of Appellate Procedure 24(a)(1), a party who did not proceed *in forma pauperis* in the district court, but who wishes to so proceed on appeal, must file a motion

with the district court and “attach an affidavit that: (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party’s inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal.” Here, plaintiff’s submission does contain a detailed explanation of plaintiff’s financial situation. However, the affidavit attached to plaintiff’s motion states only that the issues he intends to present on appeal are: “Inaccurate, incomplete, insufficient medical records provided to the court from Central Nassau Guidance and Counseling Services ref. Notice.” (ECF No. 17 at 3.) Accordingly, plaintiff’s motion plainly fails to articulate any grounds for this appeal or any errors committed by the district court. Thus, “there is no basis for the Court to grant *in forma pauperis* status for appeal purposes.” In re Nassau Cnty. Strip Search Cases, No. 99-CV-2844, 2010 WL 4021813, at *1 (E.D.N.Y. Sept. 29, 2010).

CONCLUSION

For the reasons set forth above, plaintiff’s motion for leave to appeal *in forma pauperis* is DENIED. Pursuant to Rule 24(a)(4) of the Federal Rules of Appellate Procedure, the Clerk of the Court shall serve notice of entry of this order upon both parties and “immediately notify” the United States Court of Appeals for the Second Circuit of this decision. Pursuant to Rule 24(a)(5) of the Federal Rules of Appellate Procedure, plaintiff may file a motion for leave to proceed on appeal *in forma pauperis* in the United States Court of Appeals for the Second Circuit within thirty (30) days after the Clerk of this Court serves notice of entry of this order upon him.

The Court has reviewed the record and now certifies that, pursuant to 28 U.S.C. § 1915(a)(3), any appeal from the August 30, 2018 order and final judgment entered thereupon, or this Order, would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

The Clerk of the Court is directed to mail a copy of this order to the plaintiff at his last known address: 20 Frank Avenue; Farmingdale, NY 11735.

SO ORDERED.

Dated: February 28, 2019
Central Islip, New York

/s/(JMA)
Joan M. Azrack
United States District Judge